

may aggregate, disaggregate, or consolidate program activities, except that any aggregation or consolidation may not omit or minimize the significance of any program activity constituting a major function or operation.

(d) The Postal Service may prepare a non-public annex to its plan covering program activities or parts of program activities relating to—

(1) the avoidance of interference with criminal prosecution; or

(2) matters otherwise exempt from public disclosure under section 410(c) of this title.

(Added Pub. L. 103-62, § 7, Aug. 3, 1993, 107 Stat. 293.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2802, 2804 of this title.

§ 2804. Program performance reports

(a) The Postal Service shall prepare a report on program performance for each fiscal year, which shall be included in the annual comprehensive statement presented under section 2401(g) of this title.

(b)(1) The program performance report shall set forth the performance indicators established in the Postal Service performance plan, along with the actual program performance achieved compared with the performance goals expressed in the plan for that fiscal year.

(2) If performance goals are specified by descriptive statements of a minimally effective program activity and a successful program activity, the results of such program shall be described in relationship to those categories, including whether the performance failed to meet the criteria of either category.

(c) The report for fiscal year 2000 shall include actual results for the preceding fiscal year, the report for fiscal year 2001 shall include actual results for the two preceding fiscal years, and the report for fiscal year 2002 and all subsequent reports shall include actual results for the three preceding fiscal years.

(d) Each report shall—

(1) review the success of achieving the performance goals of the fiscal year;

(2) evaluate the performance plan for the current fiscal year relative to the performance achieved towards the performance goals in the fiscal year covered by the report;

(3) explain and describe, where a performance goal has not been met (including when a program activity's performance is determined not to have met the criteria of a successful program activity under section 2803(b)(2))—

(A) why the goal was not met;

(B) those plans and schedules for achieving the established performance goal; and

(C) if the performance goal is impractical or infeasible, why that is the case and what action is recommended; and

(4) include the summary findings of those program evaluations completed during the fiscal year covered by the report.

(Added Pub. L. 103-62, § 7, Aug. 3, 1993, 107 Stat. 294.)

§ 2805. Inherently Governmental functions

The functions and activities of this chapter shall be considered to be inherently Govern-

mental functions. The drafting of strategic plans, performance plans, and program performance reports under this section shall be performed only by employees of the Postal Service.

(Added Pub. L. 103-62, § 7, Aug. 3, 1993, 107 Stat. 294.)

PART IV—MAIL MATTER

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CHAPTER 30—NONMAILABLE MATTER

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AMENDMENTS

1992—Pub. L. 102-393, title VI, § 631(d)(2), Oct. 6, 1992, 106 Stat. 1776, added item 3015.

1988—Pub. L. 100-690, title VII, § 7090(b), Nov. 18, 1988, 102 Stat. 4410, added item 3002a.

Pub. L. 100-574, § 1(a)(2), Oct. 31, 1988, 102 Stat. 2893, added item 3014.

1983—Pub. L. 98-186, § 3(c), Nov. 30, 1983, 97 Stat. 1317, added items 3012 and 3013.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3684 of this title.

§ 3001. Nonmailable matter

(a) Matter the deposit of which in the mails is punishable under section 1302, 1341, 1342, 1461, 1463, 1714,¹ 1715, 1716, 1717, 1718,¹ or 1738 of title 18, or section 26 of the Animal Welfare Act is nonmailable.

(b) Except as provided in subsection (c) of this section, nonmailable matter which reaches the office of delivery, or which may be seized or detained for violation of law, shall be disposed of as the Postal Service shall direct.

(c)(1) Matter which—

(A) exceeds the size and weight limits prescribed for the particular class of mail; or

(B) is of a character perishable within the period required for transportation and delivery;

is nonmailable.

(2) Matter made nonmailable by this subsection which reaches the office of destination may be delivered in accordance with its address,

¹ See References in Text note below.

if the party addressed furnishes the name and address of the sender.

(d) Matter otherwise legally acceptable in the mails which—

(1) is in the form of, and reasonably could be interpreted or construed as, a bill, invoice, or statement of account due; but

(2) constitutes, in fact, a solicitation for the order by the addressee of goods or services, or both;

is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe—

(A) the following notice: “This is a solicitation for the order of goods or services, or both, and not a bill, invoice, or statement of account due. You are under no obligation to make any payments on account of this offer unless you accept this offer.”; or

(B) in lieu thereof, a notice to the same effect in words which the Postal Service may prescribe.

(e)(1) Any matter which is unsolicited by the addressee and which is designed, adapted, or intended for preventing conception (except unsolicited samples thereof mailed to a manufacturer thereof, a dealer therein, a licensed physician or surgeon, or a nurse, pharmacist, druggist, hospital, or clinic) is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

(2) Any unsolicited advertisement of matter which is designed, adapted, or intended for preventing conception is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs unless the advertisement—

(A) is mailed to a manufacturer of such matter, a dealer therein, a licensed physician or surgeon, or a nurse, pharmacist, druggist, hospital, or clinic; or

(B) accompanies in the same parcel any unsolicited sample excepted by paragraph (1) of this subsection.

An advertisement shall not be deemed to be unsolicited for the purposes of this paragraph if it is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive.

(f) Any matter which is unsolicited by the addressee, which contains a “household substance” (as defined by section 2 of the Poison Prevention Packaging Act of 1970), and which does not comply with the requirements for special child-resistant packaging established for that substance by the Consumer Product Safety Commission, is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

(g)(1) Matter otherwise legally acceptable in the mails which contains or includes a fragrance advertising sample is nonmailable matter, shall not be carried or delivered by mail, and shall be

disposed of as the Postal Service directs, unless the sample is sealed, wrapped, treated, or otherwise prepared in a manner reasonably designed to prevent individuals from being unknowingly or involuntarily exposed to the sample.

(2) The Postal Service shall by regulation establish the standards or requirements which a fragrance advertising sample must satisfy in order for the mail matter involved not to be considered nonmailable under this subsection.

(h) Matter otherwise legally acceptable in the mails which constitutes a solicitation by a nongovernmental entity for the purchase of or payment for a product or service; and contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement is nonmailable matter and shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless—

(1) such nongovernmental entity has such expressed connection, approval or endorsement;

(2)(A) such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe, the following notice: **“THIS PRODUCT OR SERVICE HAS NOT BEEN APPROVED OR ENDORSED BY THE FEDERAL GOVERNMENT, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE FEDERAL GOVERNMENT.”**, or a notice to the same effect in words which the Postal Service may prescribe; and

(B) the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and in conspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: **“THIS IS NOT A GOVERNMENT DOCUMENT.”**, or a notice to the same effect in words which the Postal Service may prescribe; or

(3) such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher of the publication.

(i) Matter otherwise legally acceptable in the mails which constitutes a solicitation by a nongovernmental entity for information or the contribution of funds or membership fees and contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement is nonmailable matter and shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless—

(1) such nongovernmental entity has such expressed connection, approval or endorsement;

(2)(A) such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe, the follow-

ing notice: **“THIS ORGANIZATION HAS NOT BEEN APPROVED OR ENDORSED BY THE FEDERAL GOVERNMENT, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE FEDERAL GOVERNMENT.”**, or a notice to the same effect in words which the Postal Service may prescribe; and

(B) the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and in conspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: **“THIS IS NOT A GOVERNMENT DOCUMENT.”**, or a notice to the same effect in words which the Postal Service may prescribe; or

(3) such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher of the publication.

(j) Except as otherwise provided by law, proceedings concerning the mailability of matter under this chapter and chapters 71 and 83 of title 18 shall be conducted in accordance with chapters 5 and 7 of title 5.

(k) The district courts, together with the District Court of the Virgin Islands and the District Court of Guam, shall have jurisdiction, upon cause shown, to enjoin violations of section 1716 of title 18.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 745; Pub. L. 91-662, §6(1), Jan. 8, 1971, 84 Stat. 1974; Pub. L. 92-191, §2, Dec. 15, 1971, 85 Stat. 647; Pub. L. 89-544, §26(h)(2), as added Pub. L. 94-279, §17, Apr. 22, 1976, 90 Stat. 423; Pub. L. 97-398, §5, Dec. 31, 1982, 96 Stat. 2011; Pub. L. 101-493, §2, Oct. 31, 1990, 104 Stat. 1184; Pub. L. 101-524, §2(a), Nov. 6, 1990, 104 Stat. 2301; Pub. L. 102-71, §2(1), July 10, 1991, 105 Stat. 330.)

REFERENCES IN TEXT

Sections 1714 and 1718 of title 18, referred to in subsec. (a), were repealed by Pub. L. 101-647, title XII, §1210(b), (c), Nov. 29, 1990, 104 Stat. 4832.

Section 26 of the Animal Welfare Act, referred to in subsec. (a), is section 26(a)-(h)(1) of Pub. L. 89-544 as added by Pub. L. 94-279, §17, Apr. 22, 1976, 90 Stat. 421, which is classified to section 2156 of Title 7, Agriculture.

Section 2 of the Poison Prevention Packaging Act of 1970, referred to in subsec. (f), is classified to section 1471 of Title 15, Commerce and Trade.

AMENDMENTS

1991—Subsecs. (i) to (k). Pub. L. 102-71 redesignated subsec. (i), relating to conduct of proceedings concerning mailability of certain matter, as (j), and former subsec. (j), relating to jurisdiction of district courts, as (k).

1990—Subsec. (f). Pub. L. 101-524 added subsec. (f). Former subsec. (f) redesignated (i).

Pub. L. 101-493 added subsec. (f). Former subsec. (f), as added by Pub. L. 101-524, redesignated (h).

Subsec. (g). Pub. L. 101-524 added subsec. (g). Former subsec. (g) redesignated (j).

Pub. L. 101-493 added subsec. (g). Former subsec. (g), as added by Pub. L. 101-524, redesignated (i).

Subsec. (h). Pub. L. 101-493 redesignated subsec. (f), as added by Pub. L. 101-524, as (h).

Subsec. (i). Pub. L. 101-524 redesignated subsec. (f) as (i).

Pub. L. 101-493 redesignated subsec. (g), as added by Pub. L. 101-524, as (i).

Subsec. (j). Pub. L. 101-524 redesignated subsec. (g) as (j).

1982—Subsec. (a). Pub. L. 97-398 substituted “, 1718, or 1738” for “or 1718”.

1976—Subsec. (a). Pub. L. 94-279 inserted “, or section 26 of the Animal Welfare Act” after “title 18”.

1971—Subsecs. (e), (f). Pub. L. 91-662, §6(1)(A), (B), added subsec. (e) and redesignated former subsec. (e) as (f). Section 5(a) of Pub. L. 91-662 inserted a similar provision to section 4001 of former Title 39, The Postal Service, pending the effective date of this section. Said amendment to section 4001 has not been executed in view of the passage of Title 39, Postal Service, as enacted by the Postal Reorganization Act.

Subsec. (g). Pub. L. 92-191 added subsec. (g).

EFFECTIVE DATE OF 1990 AMENDMENTS

Section 6 of Pub. L. 101-524 provided that: “The provisions of this Act [enacting section 413 of this title, amending this section and section 3005 of this title, and enacting provisions set out as notes below] shall take effect on the date of the enactment of this Act [Nov. 6, 1990], except the amendments made by section 2 [amending this section and section 3005 of this title] shall apply to matter deposited for mailing and delivery on or after 180 days after the date of the enactment of this Act.”

Section 3 of Pub. L. 101-493 provided that: “The amendments made by this Act [amending this section] shall take effect 180 days after the date of enactment of this Act [Oct. 31, 1990], and shall apply with respect to any matter mailed on or after that effective date.”

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-191 effective at beginning of third calendar month following Dec. 15, 1971, or on the date that this section becomes effective pursuant to section 15(a) of Pub. L. 91-375, which is set out as and Effective Date note preceding section 101 of this title, whichever is later, see section 3 of Pub. L. 92-191, set out as a note under section 1716 of Title 18, Crimes and Criminal Procedure.

Section 6 of Pub. L. 91-662 provided that the amendment made by that section is effective on the date that the Board of Governors of the United States Postal Service establishes as the effective date for section 3001 of title 39 of the United States Code, as enacted by the Postal Reorganization Act.

EFFECTIVE DATE

Chapter effective July 1, 1971, pursuant to Resolution No. 71-9 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

SHORT TITLE OF 1990 AMENDMENTS

Section 1 of Pub. L. 101-524 provided that: “This Act [enacting section 413 of this title, amending this section and section 3005 of this title, and enacting provisions set out as notes under this section] may be cited as the ‘Deceptive Mailings Prevention Act of 1990’.”

Section 1 of Pub. L. 101-493 provided that: “This Act [amending this section and enacting provisions set out above] may be cited as the ‘Drug and Household Substance Mailing Act of 1990’.”

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 98-186, §1, Nov. 30, 1983, 97 Stat. 1315, provided: “That this Act [enacting sections 3012 and 3013 of this title, amending section 3005 of this title, and enacting provisions set out as notes under sections 3005 and 3012 of this title] may be cited as the ‘Mail Order Consumer Protection Amendments of 1983’.”

COORDINATION OF FUNCTIONS WITH DEPARTMENT OF HEALTH AND HUMAN SERVICES

Section 4 of Pub. L. 101-524 provided that: “The United States Postal Service shall consult and coordi-

nate the functions and administration of the provisions of this Act and the amendments made by this Act [see Short Title of 1990 Amendments note above] with the Secretary of the Department of Health and Human Services and the functions of the Secretary in the administration of section 428 of the Medicare Catastrophic Coverage Act of 1988 (42 U.S.C. 1320b-10) [Pub. L. 100-360, which enacted section 1320b-10 of Title 42, The Public Health and Welfare, amended section 1395ss of Title 42, and enacted provisions set out as a note under section 1320b-10 of Title 42].”

NOTICE WITH RESPECT TO OBSCENE MATTER
DISTRIBUTED BY MAIL AND DETENTION THEREOF

Pub. L. 87-793, §307, Oct. 11, 1962, 76 Stat. 841, provided that: “In order to alert the recipients of mail and the general public to the fact that large quantities of obscene, lewd, lascivious, and indecent matter are being introduced into this country from abroad and disseminated in the United States by means of the United States mails, the Postmaster General shall publicize such fact (1) by appropriate notices posted in post offices, and (2) by notifying recipients of mail, whenever he deems it appropriate in order to carry out the purposes of this section, that the United States mails may contain such obscene, lewd, lascivious, or indecent matter. Any person may file a written request with his local post office to detain obscene, lewd, lascivious, or indecent matter addressed to him, and the Postmaster General shall detain and dispose of such matter for such period as the request is in effect. The Postmaster General shall permit the return of mail containing obscene, lewd, lascivious, or indecent matter, to local post offices, without cost to the recipient thereof. Nothing in this section shall be deemed to authorize the Postmaster General to open, inspect, or censor any mail except on specific request by the addressee thereof. The Postmaster General is authorized to prescribe such regulations as he may deem appropriate to carry out the purposes of this section.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3005 of this title.

§ 3002. Nonmailable motor vehicle master keys

(a) Except as provided in subsection (b) of this section, any motor vehicle master key, any pattern, impression, or mold from which a motor vehicle master key may be made, or any advertisement for the sale of any such key, pattern, impression, or mold, is nonmailable matter and shall not be carried or delivered by mail.

(b) The Postal Service is authorized to make such exemptions from the provisions of subsection (a) of this section as it deems necessary.

(c) For the purposes of this section, “motor vehicle master key” means any key (other than the key furnished by the manufacturer with the motor vehicle, or the key furnished with a replacement lock, or any exact duplicate of such keys) designed to operate 2 or more motor vehicle ignition, door, or trunk locks of different combinations.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 746.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 1716A.

§ 3002a. Nonmailability of locksmithing devices

(a) Any locksmithing device is nonmailable mail, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless such device is mailed to—

- (1) a lock manufacturer or distributor;

- (2) a bona fide locksmith;
- (3) a bona fide reposessor; or
- (4) a motor vehicle manufacturer or dealer.

(b) For the purpose of this section, “locksmithing device” means—

(1) a device or tool (other than a key) designed to manipulate the tumblers in a lock into the unlocked position through the keyway of such lock;

(2) a device or tool (other than a key or a device or tool under paragraph (1)) designed for the unauthorized opening or bypassing of a lock or similar security device; and

(3) a device or tool designed for making an impression of a key or similar security device to duplicate such key or device.

(Added Pub. L. 100-690, title VII, §7090(a), Nov. 18, 1988, 102 Stat. 4409.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 1716A.

§ 3003. Mail bearing a fictitious name or address

(a) Upon evidence satisfactory to the Postal Service that any person is using a fictitious, false, or assumed name, title, or address in conducting, promoting, or carrying on or assisting therein, by means of the postal services of the United States, an activity in violation of sections 1302, 1341, and 1342 of title 18, it may—

(1) withhold mail so addressed from delivery; and

(2) require the party claiming the mail to furnish proof to it of the claimant’s identity and right to receive the mail.

(b) The Postal Service may issue an order directing that mail, covered by subsection (a) of this section, be forwarded to a dead letter office as fictitious matter, or be returned to the sender when—

(1) the party claiming the mail fails to furnish proof of his identity and right to receive the mail; or

(2) the Postal Service determines that the mail is addressed to a fictitious, false, or assumed name, title, or address.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 746.)

§ 3004. Delivery of mail to persons not residents of the place of address

Whenever the Postal Service determines that letters or parcels sent in the mail are addressed to places not the residence or regular business address of the person for whom they are intended, to enable the person to escape identification, the Postal Service may deliver the mail only upon identification of the person so addressed.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 747.)

§ 3005. False representations; lotteries

(a) Upon evidence satisfactory to the Postal Service that any person is engaged in conducting a scheme or device for obtaining money or property through the mail by means of false representations, including the mailing of matter which is nonmailable under¹ 3001(d), (h), or (i) of

¹ So in original. Probably should be followed by “section”.

this title, or is engaged in conducting a lottery, gift enterprise, or scheme for the distribution of money or of real or personal property, by lottery, chance, or drawing of any kind, the Postal Service may issue an order which—

(1) directs the postmaster of the post office at which mail arrives, addressed to such a person or to his representative, to return such mail to the sender appropriately marked as in violation of this section, if the person, or his representative, is first notified and given reasonable opportunity to be present at the receiving post office to survey the mail before the postmaster returns the mail to the sender;

(2) forbids the payment by a postmaster to the person or his representative of any money order or postal note drawn to the order of either and provides for the return to the remitter of the sum named in the money order or postal note; and

(3) requires the person or his representative to cease and desist from engaging in any such scheme, device, lottery, or gift enterprise.

For purposes of the preceding sentence, the mailing of matter which is nonmailable under such¹ 3001(d), (h), or (i) by any person shall constitute prima facie evidence that such person is engaged in conducting a scheme or device for obtaining money or property through the mail by false representations.

(b) The public advertisement by a person engaged in activities covered by subsection (a) of this section, that remittances may be made by mail to a person named in the advertisement, is prima facie evidence that the latter is the agent or representative of the advertiser for the receipt of remittances on behalf of the advertiser. The Postal Service may ascertain the existence of the agency in any other legal way satisfactory to it.

(c) As used in this section and section 3006 of this title, the term “representative” includes an agent or representative acting as an individual or as a firm, bank, corporation, or association of any kind.

(d) Nothing in this section shall prohibit the mailing of (1) publications containing advertisements, lists of prizes, or information concerning a lottery, which are exempt, pursuant to section 1307 of title 18 of the United States Code, from the provisions of sections 1301, 1302, 1303, and 1304 of title 18 of the United States Code, (2) tickets or other materials concerning such a lottery within that State to addresses within that State, or (3) an advertisement promoting the sale of a book or other publication, or a solicitation to purchase, or a purchase order for any such publication, if (A) such advertisement, solicitation, or purchase order is not materially false or misleading in its description of the publication; (B) such advertisement, solicitation, or purchase order contains no material misrepresentation of fact: *Provided, however,* That no statement quoted or derived from the publication shall constitute a misrepresentation of fact as long as such statement complies with the requirements of subparagraphs (A) and (C); and (C) the advertisement, solicitation, or purchase order accurately discloses the source of any statements quoted or derived from the publication. Paragraph (3) shall not be applicable to

any publication, advertisement, solicitation, or purchase order which is used to sell some other product in which the publisher or author has a financial interest as part of a commercial scheme. For the purposes of this subsection, “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(e)(1) In conducting an investigation to determine if a person is engaged in any of the activities covered by subsection (a) of this section, the Postmaster General (or any duly authorized agent of the Postmaster General) may tender, at any reasonable time and by any reasonable means, the price advertised or otherwise requested for any article or service that such person has offered to provide through the mails.

(2) A failure to provide the article or service offered after the Postmaster General or his agent has tendered the price advertised or otherwise requested in the manner described in paragraph (1) of this subsection, and any reasons for such failure, may be considered in a proceeding held under section 3007 of this title to determine if there is probable cause to believe that a violation of this section has occurred.

(3) The Postmaster General shall prescribe regulations under which any individual seeking to make a purchase on behalf of the Postal Service under this subsection from any person shall—

(A) identify himself as an employee or authorized agent of the Postal Service, as the case may be;

(B) state the nature of the conduct under investigation; and

(C) inform such person that the failure to complete the transaction may be considered in a proceeding under section 3007 of this title to determine probable cause, in accordance with paragraph (2) of this subsection.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 747; Pub. L. 93-583, §4, Jan. 2, 1975, 88 Stat. 1916; Pub. L. 94-525, §2, Oct. 17, 1976, 90 Stat. 2478; Pub. L. 95-360, Sept. 9, 1978, 92 Stat. 594; Pub. L. 98-186, §2, Nov. 30, 1983, 97 Stat. 1315; Pub. L. 100-625, §2(c), Nov. 7, 1988, 102 Stat. 3205; Pub. L. 101-524, §2(b), Nov. 6, 1990, 104 Stat. 2302; Pub. L. 102-71, §2(2), July 10, 1991, 105 Stat. 330.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-71 substituted “3001(d), (h), or (i)” for “section 3001(d), (f), or (g)” in two places.

1990—Subsec. (a). Pub. L. 101-524 substituted “section 3001(d), (f), or (g)” for “section 3001(d)” in two places.

1988—Subsec. (d)(1). Pub. L. 100-625 amended cl. (1) generally. Prior to amendment, cl. (1) read as follows: “a newspaper of general circulation containing advertisements, lists of prizes, or information concerning a lottery conducted by a State acting under authority of State law, published in that State, or in an adjacent State which conducts such a lottery.”

1983—Subsec. (a)(3). Pub. L. 98-186, §2(a), added par. (3).

Subsec. (d). Pub. L. 98-186, §2(b), struck out “or” before “(2)”, inserted “or” before “(3)”, and inserted cl. (3) and provision relating to applicability of cl. (3).

Subsec. (e). Pub. L. 98-186, §2(c), added subsec. (e).

1978—Subsec. (a). Pub. L. 95-360 inserted provisions relating to nonmailable matter under section 3001(d) of this title.

1976—Subsec. (d). Pub. L. 94-525 substituted “a newspaper of general circulation containing advertisements,

lists of prizes, or information concerning a lottery conducted by a State acting under authority of State law, published in that State, or in an adjacent State which conducts such a lottery," for "a newspaper of general circulation published in a State containing advertisements, lists of prizes, or information concerning a lottery conducted by that State acting under authority of State law,".

1975—Subsec. (d). Pub. L. 93-583 added subsec. (d).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-524 effective Nov. 6, 1990, and applicable to matter deposited for mailing and delivery on or after 180 days after Nov. 6, 1990, see section 6 of Pub. L. 101-524, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-625 effective 18 months after Nov. 7, 1988, see section 5 of Pub. L. 100-625, set out as a note under section 1304 of Title 18, Crimes and Criminal Procedure.

CONSUMER EDUCATION PROGRAM ON SCHEMES INVOLVING FALSE REPRESENTATIONS

Section 4 of Pub. L. 98-186, as amended by Pub. L. 104-66, title II, § 2211(a), Dec. 21, 1995, 109 Stat. 732, provided that:

"(a) As soon as practicable after the date of enactment of this Act [Nov. 30, 1983], the Postmaster General or his designee, following consultation with representatives of the mail order industry, shall develop and carry out a program designed to provide consumer education to the public on schemes involving false representations through use of the mails, including the dissemination of information on recognizing practices commonly associated with such schemes, as well as appropriate measures which an individual may take upon receiving mail matter which the individual believes may be part of such a scheme.

"(b) A summary of the activities carried out under subsection (a) shall be included in the first semiannual report submitted each year as required under section 5 of the Inspector General Act of 1978 (5 U.S.C. App.)."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3007, 3012, 3013 of this title.

§ 3006. Unlawful matter

Upon evidence satisfactory to the Postal Service that a person is obtaining or attempting to obtain remittances of money or property of any kind through the mail for an obscene, lewd, lascivious, indecent, filthy, or vile thing or is depositing or causing to be deposited in the United States mail information as to where, how, or from whom such a thing may be obtained, the Postal Service may—

(1) direct any postmaster at an office at which mail arrives, addressed to such a person or to his representative, to return the mail to the sender marked "Unlawful"; and

(2) forbid the payment by a postmaster to such a person or his representative of any money order or postal note drawn to the order of either and provide for the return to the remitter of the sum named in the money order.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 747.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3005, 3007, 3011 of this title.

§ 3007. Detention of mail for temporary periods

(a) In preparation for or during the pendency of proceedings under sections 3005 and 3006 of

this title, the United States district court in the district in which the defendant receives his mail shall, upon application therefor by the Postal Service and upon a showing of probable cause to believe either section is being violated, enter a temporary restraining order and preliminary injunction pursuant to rule 65 of the Federal Rules of Civil Procedure directing the detention of the defendant's incoming mail by the postmaster pending the conclusion of the statutory proceedings and any appeal therefrom. The district court may provide in the order that the detained mail be open to examination by the defendant and such mail be delivered as is clearly not connected with the alleged unlawful activity. An action taken by a court hereunder does not affect or determine any fact at issue in the statutory proceedings.

(b) This section does not apply to mail addressed to publishers of newspapers and other periodical publications entitled to a periodical publication rate or to mail addressed to the agents of those publishers.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 747.)

REFERENCES IN TEXT

Rule 65 of the Federal Rules of Civil Procedure, referred to in subsec. (a), is set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3005, 3011, 3012, 3013 of this title.

§ 3008. Prohibition of pandering advertisements

(a) Whoever for himself, or by his agents or assigns, mails or causes to be mailed any pandering advertisement which offers for sale matter which the addressee in his sole discretion believes to be erotically arousing or sexually provocative shall be subject to an order of the Postal Service to refrain from further mailings of such materials to designated addresses thereof.

(b) Upon receipt of notice from an addressee that he has received such mail matter, determined by the addressee in his sole discretion to be of the character described in subsection (a) of this section, the Postal Service shall issue an order, if requested by the addressee, to the sender thereof, directing the sender and his agents or assigns to refrain from further mailings to the named addressees.

(c) The order of the Postal Service shall expressly prohibit the sender and his agents or assigns from making any further mailings to the designated addresses, effective on the thirtieth calendar day after receipt of the order. The order shall also direct the sender and his agents or assigns to delete immediately the names of the designated addressees from all mailing lists owned or controlled by the sender or his agents or assigns and, further, shall prohibit the sender and his agents or assigns from the sale, rental, exchange, or other transaction involving mailing lists bearing the names of the designated addressees.

(d) Whenever the Postal Service believes that the sender or anyone acting on his behalf has violated or is violating the order given under this section, it shall serve upon the sender, by registered or certified mail, a complaint stating

the reasons for its belief and request that any response thereto be filed in writing with the Postal Service within 15 days after the date of such service. If the Postal Service, after appropriate hearing if requested by the sender, and without a hearing if such a hearing is not requested, thereafter determines that the order given has been or is being violated, it is authorized to request the Attorney General to make application, and the Attorney General is authorized to make application, to a district court of the United States for an order directing compliance with such notice.

(e) Any district court of the United States within the jurisdiction of which any mail matter shall have been sent or received in violation of the order provided for by this section shall have jurisdiction, upon application by the Attorney General, to issue an order commanding compliance with such notice. Failure to observe such order may be punishable by the court as contempt thereof.

(f) Receipt of mail matter 30 days or more after the effective date of the order provided for by this section shall create a rebuttable presumption that such mail was sent after such effective date.

(g) Upon request of any addressee, the order of the Postal Service shall include the names of any of his minor children who have not attained their nineteenth birthday, and who reside with the addressee.

(h) The provisions of subchapter II of chapter 5, relating to administrative procedure, and chapter 7, relating to judicial review, of title 5, shall not apply to any provisions of this section.

(i) For purposes of this section—

(1) mail matter, directed to a specific address covered in the order of the Postal Service, without designation of a specific addressee thereon, shall be considered as addressed to the person named in the Postal Service's order; and

(2) the term "children" includes natural children, stepchildren, adopted children, and children who are wards of or in custody of the addressee or who are living with such addressee in a regular parent-child relationship.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 748.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3011 of this title; title 18 section 1737.

§ 3009. Mailing of unordered merchandise

(a) Except for (1) free samples clearly and conspicuously marked as such, and (2) merchandise mailed by a charitable organization soliciting contributions, the mailing of unordered merchandise or of communications prohibited by subsection (c) of this section constitutes an unfair method of competition and an unfair trade practice in violation of section 45(a)(1) of title 15.

(b) Any merchandise mailed in violation of subsection (a) of this section, or within the exceptions contained therein, may be treated as a gift by the recipient, who shall have the right to retain, use, discard, or dispose of it in any manner he sees fit without any obligation whatso-

ever to the sender. All such merchandise shall have attached to it a clear and conspicuous statement informing the recipient that he may treat the merchandise as a gift to him and has the right to retain, use, discard, or dispose of it in any manner he sees fit without any obligation whatsoever to the sender.

(c) No mailer of any merchandise mailed in violation of subsection (a) of this section, or within the exceptions contained therein, shall mail to any recipient of such merchandise a bill for such merchandise or any dunning communications.

(d) For the purposes of this section, "unordered merchandise" means merchandise mailed without the prior expressed request or consent of the recipient.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 749.)

§ 3010. Mailing of sexually oriented advertisements

(a) Any person who mails or causes to be mailed any sexually oriented advertisement shall place on the envelope or cover thereof his name and address as the sender thereof and such mark or notice as the Postal Service may prescribe.

(b) Any person, on his own behalf or on the behalf of any of his children who has not attained the age of 19 years and who resides with him or is under his care, custody, or supervision, may file with the Postal Service a statement, in such form and manner as the Postal Service may prescribe, that he desires to receive no sexually oriented advertisements through the mails. The Postal Service shall maintain and keep current, insofar as practicable, a list of the names and addresses of such persons and shall make the list (including portions thereof or changes therein) available to any person, upon such reasonable terms and conditions as it may prescribe, including the payment of such service charge as it determines to be necessary to defray the cost of compiling and maintaining the list and making it available as provided in this sentence. No person shall mail or cause to be mailed any sexually oriented advertisement to any individual whose name and address has been on the list for more than 30 days.

(c) No person shall sell, lease, lend, exchange, or license the use of, or, except for the purpose expressly authorized by this section, use any mailing list compiled in whole or in part from the list maintained by the Postal Service pursuant to this section.

(d) "Sexually oriented advertisement" means any advertisement that depicts, in actual or simulated form, or explicitly describes, in a predominantly sexual context, human genitalia, any act of natural or unnatural sexual intercourse, any act of sadism or masochism, or any other erotic subject directly related to the foregoing. Material otherwise within the definition of this subsection shall be deemed not to constitute a sexually oriented advertisement if it constitutes only a small and insignificant part of the whole of a single catalog, book, periodical, or other work the remainder of which is not primarily devoted to sexual matters.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 749.)

EFFECTIVE DATE

Section effective first day of sixth month which begins after Aug. 12, 1970, see section 15(b) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

INVASION OF PRIVACY BY MAILING OF SEXUALLY ORIENTED ADVERTISEMENTS

Section 14 of Pub. L. 91-375 provided that:

“(a) [Congressional findings] The Congress finds—

“(1) that the United States mails are being used for the indiscriminate dissemination of advertising matter so designed and so presented as to exploit sexual sensationalism for commercial gain;

“(2) that such matter is profoundly shocking and offensive to many persons who receive it, unsolicited, through the mails;

“(3) that such use of the mails constitutes a serious threat to the dignity and sanctity of the American home and subjects many persons to an unconscionable and unwarranted intrusion upon their fundamental personal right to privacy;

“(4) that such use of the mail reduces the ability of responsible parents to protect their minor children from exposure to material which they as parents believe to be harmful to the normal and healthy ethical, mental, and social development of their children; and

“(5) that the traffic in such offensive advertisements is so large that individual citizens will be helpless to protect their privacy or their families without stronger and more effective Federal controls over the mailing of such matter.

“(b) [Congressional Determination of Public Policy] On the basis of such findings, the Congress determines that it is contrary to the public policy of the United States for the facilities and services of the United States Postal Service to be used for the distribution of such materials to persons who do not want their privacy invaded in this manner or to persons who wish to protect their minor children from exposure to such material.”

Provisions of section 14 of Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date not preceding section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3011 of this title; title 18 sections 1735, 1736, 1737.

§ 3011. Judicial enforcement

(a) Whenever the Postal Service believes that any person is mailing or causing to be mailed any sexually oriented advertisement in violation of section 3010 of this title, it may request the Attorney General to commence a civil action against such person in a district court of the United States. Upon a finding by the court of a violation of that section, the court may issue an order including one or more of the following provisions as the court deems just under the circumstances:

(1) a direction to the defendant to refrain from mailing any sexually oriented advertisement to a specific addressee, to any group of addressees, or to all persons;

(2) a direction to any postmaster to whom sexually oriented advertisements originating with such defendant are tendered for transmission through the mails to refuse to accept such advertisements for mailing; or

(3) a direction to any postmaster at the office at which registered or certified letters or

other letters or mail arrive, addressed to the defendant or his representative, to return the registered or certified letters or other letters or mail to the sender appropriately marked as being in response to mail in violation of section 3010 of this title, after the defendant, or his representative, has been notified and given reasonable opportunity to examine such letters or mail and to obtain delivery of mail which is clearly not connected with activity alleged to be in violation of section 3010 of this title.

(b) The statement that remittances may be made to a person named in a sexually oriented advertisement is prima facie evidence that such named person is the principal, agent, or representative of the mailer for the receipt of remittances on his behalf. The court is not precluded from ascertaining the existence of the agency on the basis of any other evidence.

(c) In preparation for, or during the pendency of, a civil action under subsection (a) of this section, a district court of the United States, upon application therefor by the Attorney General and upon a showing of probable cause to believe the statute is being violated, may enter a temporary restraining order or preliminary injunction containing such terms as the court deems just, including, but not limited to, provisions enjoining the defendant from mailing any sexually oriented advertisement to any person or class of persons, directing any postmaster to refuse to accept such defendant's sexually oriented advertisements for mailing, and directing the detention of the defendant's incoming mail by any postmaster pending the conclusion of the judicial proceedings. Any action taken by a court under this subsection does not affect or determine any fact at issue in any other proceeding under this section.

(d) A civil action under this section may be brought in the judicial district in which the defendant resides, or has his principal place of business, or in any judicial district in which any sexually oriented advertisement mailed in violation of section 3010 has been delivered by mail according to the direction thereon.

(e) Nothing in this section or in section 3010 shall be construed as amending, preempting, limiting, modifying, or otherwise in any way affecting section 1461 or 1463 of title 18 or section 3006, 3007, or 3008 of this title.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 750.)

EFFECTIVE DATE

Section effective first day of sixth month which begins after Aug. 12, 1970, see section 15(b) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

§ 3012. Civil penalties

(a) Any person—

(1) who, through the use of the mail, evades or attempts to evade the effect of an order issued under section 3005(a)(1) or 3005(a)(2) of this title;

(2) who fails to comply with an order issued under section 3005(a)(3) of this title; or

(3) who (other than a publisher described by section 3007(b) of this title) has actual knowl-

edge of any such order, is in privity with any person described by paragraph (1) or (2) of this subsection, and engages in conduct to assist any such person to evade, attempt to evade, or fail to comply with any such order, as the case may be, through the use of the mail;

shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000 for each day that such person engages in conduct described by paragraph (1), (2), or (3) of this subsection. A separate penalty may be assessed under this subsection with respect to the conduct described in each such paragraph.

(b)(1) Whenever, on the basis of any information available to it, the Postal Service finds that any person has engaged, or is engaging, in conduct described by paragraph (1), (2), or (3) of subsection (a), the Postal Service may, under the provisions of section 409(d) of this title, commence a civil action to enforce the civil penalties established by such subsection. Any such action shall be brought in the district court of the United States for the district in which the defendant resides or receives mail.

(2) If the district court determines that a person has engaged, or is engaging, in conduct described by paragraph (1), (2), or (3) of subsection (a), the court shall determine the civil penalty, if any under this section, taking into account the nature, circumstances, extent, and gravity of the violation or violations of such subsection, and, with respect to the violator, the ability to pay the penalty, the effect of the penalty on the ability of the violator to conduct lawful business, any history of prior violations of such subsection, the degree of culpability, and such other matters as justice may require.

(c) All penalties collected under authority of this section shall be paid into the Treasury of the United States.

(d) In any proceeding at any time under this section, the defendant shall be entitled as a defense or counterclaim to seek judicial review, if not already had, pursuant to chapter 7 of title 5, of the order issued under section 3005 of this title. However, nothing in this section shall be construed to preclude independent judicial review otherwise available pursuant to chapter 7 of title 5 of an order issued under section 3005 of this title.

(Added Pub. L. 98-186, §3(a), Nov. 30, 1983, 97 Stat. 1316.)

EFFECTIVE DATE

Section 3(b) of Pub. L. 98-186 provided that: "Section 3012 of title 39, United States Code (as added by subsection (a) of this section) shall apply with respect to conduct which occurs on or after the date of the enactment of this Act [Nov. 30, 1983]."

§ 3013. Semiannual reports on investigative activities of the Postal Service

The Postmaster General shall submit semiannual reports to the Board summarizing the investigative activities of the Postal Service. One semiannual report shall be submitted for the reporting period beginning on October 1 and ending on March 31, and the other semiannual report shall be submitted for the reporting period beginning on April 1 and ending on September

30. Each such report shall be submitted within sixty days after the close of the reporting period involved and shall include with respect to such reporting period—

(1) a summary of any proceedings instituted under section 3005 of this title, and the results of those and of any other such proceedings decided, settled, or otherwise concluded during such period;

(2) the number of cases in which the authority described in section 3005(e) of this title was used;

(3) the number of applications for temporary restraining orders or preliminary injunctions submitted under section 3007 of this title and, of those applications, the number granted;

(4) the total amount of expenditures and obligations incurred in carrying out the investigative activities of the Postal Service; and

(5) such other information relating to the investigative activities of the Postal Service as the Board may require.

Upon approval of a report submitted under the first sentence of this section, the information in such report shall be included in the next semiannual report required under section 5 of the Inspector General Act of 1978 (5 U.S.C. App.).

(Added Pub. L. 98-186, §3(a), Nov. 30, 1983, 97 Stat. 1317; amended Pub. L. 104-66, title II, § 2211(b), Dec. 21, 1995, 109 Stat. 733.)

REFERENCES IN TEXT

Section 5 of the Inspector General Act of 1978, referred to in text, is section 5 of Pub. L. 95-452, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1995—Pub. L. 104-66 substituted at end "the information in such report shall be included in the next semiannual report required under section 5 of the Inspector General Act of 1978 (5 U.S.C. App.)" for "the Board shall transmit such report to the Congress".

§ 3014. Nonmailable plants

(a)(1) Whenever the Secretary of Agriculture establishes a quarantine under section 8 of the Plant Quarantine Act, prohibiting the transportation by common carrier of any plant from any State or other geographic area, the Secretary shall give notice of the establishment of such quarantine to the Postal Service in writing.

(2) Upon receiving any such notice under paragraph (1), the Postal Service shall ensure that copies of such notice are prominently displayed at post offices located within each State or area covered by the quarantine, and shall take any other measures which the Postal Service considers necessary in order to inform the public both of the establishment of such quarantine and of relevant provisions of this section and sections 1716B and 1716C of title 18 in connection therewith.

(b) Any plant, the transportation of which by common carrier from any State or other area is prohibited or restricted under any quarantine referred to in subsection (a), is nonmailable matter, and may not be accepted by the Postal Service or conveyed in the mails, if the matter involved is tendered for transmission through the mails from such State or area or if such

matter first enters the mails within such State or area.

(c) The Postal Service shall, after consultation with the Secretary of Agriculture, prescribe rules and regulations permitting the mailing of a plant, and otherwise making subsection (b) of this section inapplicable with respect to such plant, if the method or manner of mailing such plant would be consistent with the procedures set forth in the rules and regulations prescribed under the fourth sentence of section 8 of the Plant Quarantine Act (relating to the inspection, disinfection, and certification of, and other conditions for, the delivery and shipment of plants otherwise subject to quarantine).

(d) For the purposes of this section—

(1) “Plant Quarantine Act” means the Act entitled “An Act to regulate the importation of nursery stock and other plants and plant products; to enable the Secretary of Agriculture to establish and maintain quarantine districts for plant diseases and insect pests; to permit and regulate the movement of fruits, plants, and vegetables therefrom, and for other purposes”, enacted August 20, 1912 (37 Stat. 315 et seq.); and

(2) “plant” means any class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products, any class of nursery stock (as defined by section 6 of the Plant Quarantine Act), and any other article or matter which is capable of carrying any dangerous plant disease or pest.

(Added Pub. L. 100-574, §1(a)(1), Oct. 31, 1988, 102 Stat. 2892.)

REFERENCES IN TEXT

The Plant Quarantine Act, referred to in subsecs. (a)(1), (c), and (d), is act Aug. 20, 1912, ch. 308, 37 Stat. 315, as amended, which is classified generally to chapter 8 (§151 et seq.) of Title 7, Agriculture. Sections 6 and 8 of the Plant Quarantine Act are classified to sections 152 and 161, respectively, of Title 7. For complete classification of this Act to the Code, see Short Title note set out under section 151 of Title 7 and Tables.

EFFECTIVE DATE

Section 4 of Pub. L. 100-574 provided that:

“(a) IN GENERAL.—This Act and the amendments made by this Act [enacting this section and sections 1716B and 1716C of Title 18, Crimes and Criminal Procedure] shall become effective on the earlier of—

“(1) the 366th day after the date of the enactment of this Act [Oct. 31, 1988]; or

“(2) the first date as of which all rules and regulations required to be prescribed under the amendments made by this Act have first been published in the Federal Register. [For publication of regulations, see 54 F.R. 49978, Dec. 4, 1989.]

“(b) REGULATIONS.—Nothing in this section shall prevent the United States Postal Service from taking any action which may be necessary to prepare and issue, as soon as possible after the date of the enactment of this Act, any rules and regulations which the Postal Service is required to prescribe under any of the amendments made by this Act.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 sections 1716B, 1716C.

§ 3015. Nonmailable plant pests and injurious animals

(a) INJURIOUS ANIMALS.—Any injurious animal, the importation or interstate shipment of which

is prohibited pursuant to section 42 of title 18, constitutes nonmailable matter.

(b) PLANT PESTS.—Any plant pest, the movement of which is prohibited pursuant to section 103 or 104 of the Federal Plant Pest Act (7 U.S.C. 150bb or 150cc), constitutes nonmailable matter.

(c) PLANTS.—Any plant, article, or matter, the importation or interstate shipment of which is prohibited pursuant to the Act of August 20, 1912 (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.) (commonly known as the “Plant Quarantine Act”), constitutes nonmailable matter.

(d) ILLEGALLY TAKEN FISH, WILDLIFE, OR PLANTS.—Any fish, wildlife, or plant, the conveyance of which is prohibited pursuant to section 3 of the Lacey Act Amendments of 1981 (16 U.S.C. 3372), constitutes nonmailable matter.

(Added Pub. L. 102-393, title VI, §631(d)(1), Oct. 6, 1992, 106 Stat. 1776.)

REFERENCES IN TEXT

The Plant Quarantine Act, referred to in subsec. (c), is act Aug. 20, 1912, ch. 308, 37 Stat. 315, as amended, which is classified generally to chapter 8 (§151 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 151 of Title 7 and Tables.

SHORT TITLE

Section 631(e) of Pub. L. 102-393 provided that: “This section [enacting this section and provisions set out below] may be cited as the ‘Alien Species Prevention and Enforcement Act of 1992.’”

ALIEN SPECIES PREVENTION AND ENFORCEMENT IN HAWAII

Section 631(a)–(c) of Pub. L. 102-393 provided that:

“(a) PESTS IN THE MAILS.—

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Agriculture shall hereafter operate a program, under terms and conditions acceptable to the Postal Service, to protect Hawaii from the introduction of prohibited plants, plant pests, and injurious animals that may be contained in mail received in Hawaii, except that this subsection shall not apply to mail that originates and is intended for delivery outside the United States.

“(2) MEMORANDUM OF UNDERSTANDING.—For the purpose of carrying out the program operated under paragraph (1), the Secretary of Agriculture shall enter into a memorandum of understanding or other agreement with the Secretary of the Interior relating to prohibited plants, plant pests, or injurious animals under the jurisdiction of the Department of the Interior.

“(3) REMEDIAL ACTION.—If, pursuant to the program, mail is found to contain a prohibited plant, plant pest, or injurious animal, the Secretary shall—

“(A) make a record of the prohibited plant, plant pest, or injurious animal found in the mail;

“(B) take appropriate action to prevent the introduction of the prohibited material into Hawaii; and

“(C) determine whether the facts and circumstances warrant seeking prosecution under a law prohibiting the conveyance of a plant, plant pest, or injurious animal.

“(4) DEFINITIONS.—As used in this subsection:

“(A) INJURIOUS ANIMAL.—The term ‘injurious animal’ means an animal the importation or interstate shipment of which is prohibited by section 42 of title 18, United States Code.

“(B) PLANT.—The term ‘plant’ means a plant from any class of plants, or any other article or matter, the importation or interstate shipment of which is prohibited under the Act of August 20, 1912 (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.) (commonly known as the ‘Plant Quarantine Act’).

“(C) PLANT PEST.—The term ‘plant pest’ means any organism or substance the importation or interstate shipment of which is prohibited under the Federal Plant Pest Act (7 U.S.C. 150aa et seq.).

“(b) COOPERATIVE AGREEMENTS WITH HAWAII TO ENFORCE CERTAIN AGRICULTURAL QUARANTINE LAWS.—

“(1) AGREEMENT BETWEEN SECRETARY OF AGRICULTURE AND HAWAII.—

“(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Oct. 6, 1992], the Secretary of Agriculture shall offer to enter into a cooperative agreement with the State of Hawaii for a 2-year period to enforce in the State—

“(i) the Act of August 20, 1912 (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.) (commonly known as the ‘Plant Quarantine Act’);

“(ii) the Federal Plant Pest Act (7 U.S.C. 150aa et seq.); and

“(iii) the matter under the heading ‘ENFORCEMENT OF THE PLANT-QUARANTINE ACT’ of the Act of March 4, 1915 (38 Stat. 1113; 7 U.S.C. 166) (commonly known as the ‘Terminal Inspection Act’).

“(B) INSPECTION OF PLANTS AND PLANT PRODUCTS.—The cooperative agreement shall establish a specific procedure for the submission and approval of the names of plants and plant products that the State of Hawaii elects to inspect under the provision of law referred to in subparagraph (A)(iii).

“(C) AUTHORITY.—The Secretary shall carry out this paragraph under the authority provided by—

“(i) section 102 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 147a);

“(ii) section 3 of the Act of May 29, 1884 (23 Stat. 32, chapter 60; 21 U.S.C. 114); and

“(iii) section 11 of the Department of Agriculture Organic Act of 1956 (7 U.S.C. 114a) [probably means section 11 of act May 29, 1884, as added by the Department of Agriculture Organic Act of 1944, which is classified to 21 U.S.C. 114a].

“(2) AGREEMENT BETWEEN SECRETARY OF THE INTERIOR AND HAWAII.—

“(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Oct. 6, 1992], the Secretary of the Interior shall offer to enter into a cooperative agreement with the State of Hawaii for a 2-year period to enforce in the State the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

“(B) AUTHORITY.—The Secretary shall use to carry out this paragraph the authority provided under section 3 of the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 742l).

“(3) AGREEMENT BETWEEN POSTAL SERVICE AND HAWAII.—

“(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Postal Service shall offer to enter into a cooperative agreement with the State of Hawaii for a 2-year period to enforce in the State, under terms and conditions acceptable to the Postal Service and in compliance with postal regulations, Public Law 100-574 [enacting section 3014 of this title, sections 1716B and 1716C of Title 18, Crimes and Criminal Procedure, and provisions set out as a note under section 3014 of this title] and the amendments made by such Public Law.

“(B) AUTHORITY.—The Postal Service shall use to carry out this paragraph the authority provided under section 3014 of title 39, United States Code.

“(4) COOPERATIVE PROGRAMS.—Any program conducted jointly by the State of Hawaii and any Federal agency under this subsection that in any way affects the mail or the postal system of the United States shall comply with postal regulations and shall be conducted under terms and conditions acceptable to the Postal Service.

“(5) EXTENSION OF AGREEMENTS.—A cooperative agreement entered into under this subsection may be extended by mutual consent of the parties to the agreement.

“(c) PUBLIC INFORMATION PROGRAM ON PROHIBITIONS AGAINST SHIPMENT OR TRANSPORTATION OF PLANT PESTS AND INJURIOUS ANIMALS.—

“(1) IN GENERAL.—The Postal Service, the Secretary of the Interior, and the Secretary of Agriculture shall jointly establish a public information program to inform the public on—

“(A) the prohibitions against the shipment or transportation of plants, plants [sic] pests, and injurious animals; and

“(B) the consequences of violating Federal laws designed to prevent the introduction of alien species into the State of Hawaii and other areas of the United States.

“(2) METHODS.—In carrying out paragraph (1), the Postal Service and Secretaries may—

“(A) use public service announcements, mail, and other forms of distributing information, dial-up information services, and such other methods as will effectively communicate the information described in paragraph (1); and

“(B) cooperate with State and private organizations to carry out the program established under this subsection.

“(3) STUDY.—Not later than 1 year after the program established under subsection (a) commences, the Secretary of Agriculture, in cooperation with the Secretary of the Interior, the Postal Service, and the State of Hawaii, shall—

“(A) conduct a study to determine the proportion of plant pests and injurious animals that are introduced into Hawaii by various modes of commerce; and

“(B) report the results of the study to Congress.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 1716D.

CHAPTER 32—PENALTY AND FRANKED MAIL

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3215.	Lending or permitting use of frank unlawful.
3216.	Reimbursement for franked mailings.
3217.	Correspondence of members of diplomatic corps and consuls of countries of Postal Union of Americas and Spain.
3218.	Franked mail for survivors of Members of Congress.
3219.	Mailgrams.
3220.	Use of official mail in the location and recovery of missing children.

AMENDMENTS

1985—Pub. L. 99-87, §1(a)(2), Aug. 9, 1985, 99 Stat. 290, added item 3220.

1981—Pub. L. 97-69, §6(c)(2), Oct. 26, 1981, 95 Stat. 1043, substituted “survivors” for “surviving spouses” in item 3218.

1973—Pub. L. 93-191, §§1(b), 4(b), 12(b), Dec. 18, 1973, 87 Stat. 741, 742, 746, substituted “Franked mail transmitted by the Vice President, Members of Congress, and congressional officials” for “Official correspondence of